

**FY10 DEQ Fee Proposal  
Air Emissions Fees  
Renewable Operating Permit (ROP) Program  
November 3, 2008**

**Program Description.** The 1990 amendments to the federal Clean Air Act (CAA) established a Renewable Operating Permit (ROP) program that requires states to implement an air emissions fee system to provide revenue sufficient to regulate air pollution from designated sources for the protection of public health and the environment.

**MCL Citation.** Section 334.5522 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, establishes the current fee structure. This fee structure was originally established in this section in 1995, as required by the federal CAA, and has been amended subsequently to address sunset dates and funding needs.

**Sunset Date.** The sunset date for authorization to collect air emissions fees is October 1, 2011.

**Last Fee Increase.** The current fee schedule has been in place since October 2001. It was reauthorized in its current form in October 2005 and October 2007. Historically, air emissions fees also funded the construction permits in the New Source Review (NSR) program. However, beginning in 2008, the NSR program is funded through general fund dollars as the collected fee revenue was no longer sufficient to fund both programs. The federal CAA prohibits the funding of the ROP program in any manner other than air emissions fees.

**Who Pays the Fees?** About 870 larger Michigan facilities are subject to the annual fee. These facilities include asphalt plants, manufacturing plants, electric generating plants, and other major sources of air emissions. Also, about 800 other smaller facilities (mostly dry cleaners) pay a smaller (\$250) fee.

**Services Provided.** Approximately 400 ROPs exist for Michigan sources. The Air Quality Division (AQD) staff evaluates and updates these permits every five years, and must periodically inspect the sources for compliance with permit requirements. The services include reviewing and acting on any application for a permit, permit revision, or permit renewal; providing opportunity for public participation; completing inspections to assure compliance with the terms of any operating permit; responding to citizen complaints; evaluating compliance plans; preparing emission inventories; and providing direct and indirect support to facilities under the Small Business Clean Air Assistance Program.

**Benefits of the Services Provided.** Michigan's air permit activities for the ROP program are an efficient and effective method to regulate the emission of air pollutants to an acceptable level that protects the health of Michigan citizens. This permit program combines federal and state requirements into one document for the regulated facilities. The federal air quality requirements are incorporated into consolidated permits so that companies do not have to work with both the U.S. Environmental Protection Agency (EPA) and the Michigan Department of Environmental Quality. The ROP program has been effective at promoting reductions in the emissions of air contaminants and assuring sources are complying with all state and federal air regulations.

**What Happens Without the Services?** Insufficient funding will not allow the ROP program to be adequately implemented, allowing companies to emit pollutants above a safe level and jeopardizing public health and the environment. Seniors citizens, children, and individuals with respiratory ailments will disproportionately bear increased health risks, such as asthma and increased mortality.

Further, without an acceptable ROP program or adequate funding, in accordance with the federal CAA, the EPA would be required to assume the federal program in Michigan. The EPA would collect from fee-subject facilities in Michigan an amount needed to administer the program at the federal level. The amount of the levied fees would be higher and the federal government would not recognize the nuances of the Michigan program. Companies would be required to get an ROP from EPA and would be subject to inspections and enforcement actions by EPA. Additionally, the EPA would impose sanctions on the state for failing to have an approved ROP program and possibly withhold hundreds of millions of dollars in federal highway funds and require tighter restrictions on plant expansions.

**Current Fee Revenue.** FY08 fee invoices collected about \$10 million under the current formula.

**Proposed Fee Revenue.** To adjust for inflationary costs, \$12.5 million each year is needed to operate an adequate ROP program that meets both federal requirements and industries' business needs. This level of funding represents the current staffing of the program. Three options for achieving this level of funding are proposed. Option 1 is based upon the federal Presumptive Minimum, while Options 2 and 3 adjust the fee formula.

Option 1 – Option 1 revises the fee formula by including the federal Part 70 Presumptive Minimum (FPM) amount as the emission fee each year. The FPM was designed over 18 years ago to support all the required activities as outlined in the federal CAA and is established yearly by the EPA. The value is adjusted based on a calculation of the average monthly change in the Consumer Price Index for the previous 12-month period as reported by the U.S. Bureau of Labor Statistics. The most recent FPM fee is \$43.75, set on September 18, 2008. The average yearly increase is 2.8 percent over the past 10 years. Option 1 also revises the emission cap to 4,000 tons per pollutant in accordance with the CAA. The facility fee for Categories 1 and 2, as well as the special formula for municipally owned facilities, would be removed. (Tables 1 and 2)

Option 2 – Option 2 decreases the emission fee to \$42.33 and revises the emission cap to 2,000 tons for an individual pollutant and 8,000 tons total for all pollutants. The current facility fees would be retained. The special formula for municipally owned facilities would be removed. (Tables 3 and 4)

Option 3 – Option 3 increases the emission fee to \$56.75. The current emission caps and facility fees would be retained. The special formula for municipally owned facilities would be removed. (Tables 5 and 6)

**Service Improvements and Efficiencies.** The AQD has found ways to streamline the process to review and reissue ROPs while still meeting the federal requirements. Due to these efforts, Michigan's ROP program has been used nationally as an example of a well-run program. It is anticipated that changes to the federal program will be based upon the success of the Michigan program.

The AQD's ROP work has also resulted in quality permits. The EPA has not identified problems with the ROPs issued by the AQD. In addition, there have been no EPA vetoes nor any citizen suits related to AQD-issued ROPs.

**Program Reductions.** Over the past years, staffing for the air programs has continued to decline due to inadequate funding from fee revenues. In order to meet the available budget, the AQD has cut back on all discretionary expenditures, spending only for essential travel, training and purchases. Computer software updates needed specifically for the program have had to be delayed, at risk of major system failures due to the age of the database programs. The computer software updates would benefit the applicants as it would provide a streamlined process for submittals.

As a result of the air emission fee shortfalls and resultant staffing reductions, ROP-related inspections and permit actions have been delayed or not conducted. Some inspections are conducted less than once every five years. ROP renewal, modification, and initial issuance time frames have increased, requiring the companies to wait longer for their required ROP.

**Impact Without Fee Increase.** Absent a fee increase, the ROP program will continue to decline and no longer meet the requirements of the federal CAA. Michigan would be unable to provide the services and in accordance with the federal CAA, EPA would be required to assume the program from Michigan as previously stated.

Attachments (Six Tables)



FY10 DEQ Fee Proposal  
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 November 3, 2008

**Option 1**

**Table 1 - Current and Proposed Air Emissions Fees**

FY10 Federal Presumptive Minimum Adjusted Yearly and Clean Air Act Cap for Billable Emissions

		Current Formula			Proposed Formula – Option 1		
		Emissions Fee	Facility Fee	Total Fee	Emissions Fee	Facility Fee	Total Fee
<b>Category I &amp; II</b>	Sector Breakdown found in Table 2	\$7,101,445	\$2,687,452	\$9,788,897	\$11,784,175		\$11,784,175
<b>Category III</b>	Dry Cleaner, Degreasers, etc.	\$0	\$200,000	\$200,000	\$0	\$200,000	\$200,000
<b>Total</b>		\$7,101,445	\$2,887,452	\$9,988,897	\$11,784,1753		\$11,984,175

(\$/Ton x Total Tons of Billable Emissions) = Total Fee

	<b>Current</b>	<b>Proposed</b>
Cap for total billable emission	4000	Not Applicable
Cap for each pollutant if total emissions are below cap for total billable emissions	1000	4000
Per ton charge	\$45.25	\$44.98
		Adjusted Yearly
Facility Fee for Category I (Municipal Utilities are treated as Category I)	\$4485	Not Applicable
Facility Fee for Category II	\$1795	Not Applicable
Facility Fee for Category III	\$250	\$250
Number of Category III sources (11/03/08)	800	800
Maximum Fee	\$185,485	\$572,370.50

Facility Fees are based on 2007 emissions data, as of 11/03/08

FY10 DEQ Fee Proposal  
 Air Emissions Fees  
 Renewable Operating Permit Program  
 November 3, 2008

**Option 1**

**Table 2 - Current and Proposed Category I and II Emission Fees for FY10**

Sector (Cat I & II)	Description	Current Formula	Proposed Formula for FY10 – Option 1		
		Total Fee	Number of Facilities with Proposed Fees Greater than Current Fee	Number of Facilities with Proposed Fees Less than or Equal to Current Fee	Total Fee
1	Mining	\$1,055,347	2	303	\$634,533
2	Oil and Gas	\$996,512	1	105	\$700,159
3	Food Products	\$1,257,467	6	54	\$1,362,489
4	Furniture Manufacturing	\$136,971	0	30	\$53,211
5	Chemical Manufacturing	\$614,430	1	61	\$411,747
6	Glass, Cement, Metal, etc	\$1,291,710	5	42	\$1,834,104
7	Transportation Equipment	\$834,055	1	59	\$606,690
8	Electric Generating	\$2,737,068	19	51	\$5,624,614
9	Landfills and Waste	\$865,338	2	117	\$556,628
	Total	\$9,788,897	37	822	\$11,784,175

Average increase in Fee for each of the 36 facilities is \$116,383.  
 Average decrease in Fee for each of the 847 facilities is \$2,811.

**Option 2**

**Table 3 - Current and Proposed Air Emissions Fees**

Decreased Emission Fee and Increased Caps for Billable Emissions

		Current Formula			Proposed Formula – Option 2		
		Emissions Fee	Facility Fee	Total Fee	Emissions Fee	Facility Fee	Total Fee
<b>Category I &amp; II</b>	Sector Breakdown found in Table 2	\$7,101,445	\$2,687,452	\$9,788,897	\$9,807,522	\$2,464,575	\$12,272,097
<b>Category III</b>	Dry Cleaner, Degreasers, etc.	\$0	\$200,000	\$200,000	\$0	\$200,000	\$200,000
<b>Total</b>		\$7,101,445	\$2,887,452	\$9,988,897	\$9,807,522	\$2,664,575	\$12,472,097

(\$/Ton x Total Tons of Billable Emissions) + Facility Fee = Total Fee

	Current	Proposed
Cap for total billable emission	4000	8000
Cap for each pollutant if total emissions are below cap for total billable emissions	1000	2000
Per ton charge	\$45.25	\$42.33
Facility Fee for Category I (Municipal Utilities are treated as Category I)	\$4485	\$4485
Facility Fee for Category II	\$1795	\$1795
Facility Fee for Category III	\$250	\$250
Number of Category III sources (11/03/08)	800	800
Maximum Fee	\$185,485	\$343,125

Facility Fees are based on 2007 emissions data, as of 11/03/08

**Option 2**

**Table 4 - Current and Proposed Category I and II Emission Fees**

Sector (Cat I & II)	Description	Current Formula	Proposed Formula – Option 2		
		Total Fee	Number of Facilities with Proposed Fees Greater than Current Fee	Number of Facilities with Proposed Fees Less than or Equal to Current Fee	Total Fee
1	Mining	\$1,055,347	0	305	\$991,444
2	Oil and Gas	\$996,512	1	105	\$996,710
3	Food Products	\$1,257,467	6	54	\$1,371,574
4	Furniture Manufacturing	\$136,971	0	30	\$133,516
5	Chemical Manufacturing	\$614,430	1	61	\$595,619
6	Glass, Cement, Metal, etc	\$1,291,710	4	43	\$1,618,412
7	Transportation Equipment	\$834,055	2	58	\$805,077
8	Electric Generating	\$2,737,068	20	50	\$4,957,970
9	Landfills and Waste	\$865,338	1	118	\$801,775
	Total	\$9,788,897	35	824	\$12,272,097

Average increase in Fee for each of the 35 facilities is \$79,893.  
 Average decrease in Fee for each of the 824 facilities is \$380.

### Option 3

**Table 5 - Current and Proposed Air Emissions Fees**  
 Increased Emission Fee

		Current Formula			Proposed Formula – Option 3		
		Emissions Fee	Facility Fee	Total Fee	Emissions Fee	Facility Fee	Total Fee
<b>Category I &amp; II</b>	Sector Breakdown found in Table 2	\$7,101,445	\$2,687,452	\$9,788,897	\$9,807,932	\$2,464,575	\$12,272,507
<b>Category III</b>	Dry Cleaner, Degreasers, etc.	\$0	\$200,000	\$200,000	\$0	\$200,000	\$200,000
<b>Total</b>		\$7,101,445	\$2,887,452	\$9,988,987	\$9,807,932	\$2,664,575	\$12,472,507

(\$/Ton x Total Tons of Billable Emissions) + Facility Fee = Total Fee

	Current	Proposed
Cap for total billable emission	4000	4000
Cap for each pollutant if total emissions are below cap for total billable emissions	1000	1000
Per ton charge	\$45.25	\$56.75
Facility Fee for Category I (Municipal Utilities are treated as Category I)	\$4485	\$4485
Facility Fee for Category II	\$1795	\$1795
Facility Fee for Category III	\$250	\$250
Number of Category III sources (11/03/08)	800	800
Maximum Fee	\$185,485	\$231,485

Facility Fees are based on 2007 emissions data, as of 11/03/08

FY10 DEQ Fee Proposal  
 Air Emissions Fees  
 Renewable Operating Permit Program  
 November 3, 2008

**Option 3**  
**Table 6 - Current and Proposed Category I and II Emission Fees**

Sector (Cat I & II)	Description	Current Formula	Proposed Formula – Option 3		
		Total Fee	Number of Facilities with Proposed Fees Greater than Current Fee	Number of Facilities with Proposed Fees Less than or Equal to Current Fee	Total Fee
1	Mining	\$1,055,347	217	88	\$1,180,317
2	Oil and Gas	\$996,512	96	10	\$1,162,446
3	Food Products	\$1,257,467	58	2	\$1,526,429
4	Furniture Manufacturing	\$136,971	29	1	\$150,575
5	Chemical Manufacturing	\$614,430	61	1	\$717,688
6	Glass, Cement, Metal, etc	\$1,291,710	43	4	\$1,574,622
7	Transportation Equipment	\$834,055	59	1	\$986,522
8	Electric Generating	\$2,737,068	65	5	\$3,976,435
9	Landfills and Waste	\$865,338	115	4	\$997,473
	Total	\$9,788,897	743	116	\$12,272,507

Average increase in Fee for each of the 743 facilities is \$3,343.

Average decrease in Fee for each of the 125 facilities is \$0.